

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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GOVERNMENT EMPLOYEES INSURANCE :  
COMPANY, et al., 17-CV-2802(ILG)

Plaintiffs, :  
-against- : United States Courthouse  
Brooklyn, New York

IGOR MAYZENBERG, et al., :  
Defendants. : May 14, 2019  
2:00 o'clock p.m.

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TRANSCRIPT OF MOTION  
BEFORE THE HONORABLE I. LEO GLASSER  
UNITED STATES SENIOR DISTRICT JUDGE.

APPEARANCES:

For the Plaintiff GEICO: RIVKIN, RADLER LLP  
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Uniondale, NY 11556-0926

BY: MICHAEL A. SIRIGNANO, ESQ.  
STEVEN HENESY, ESQ.

For Defendants Mayzenberg,  
Mingmen, Sanli and Laogong: SCHWARTZ, CONROY & HACK, PC  
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BY: MATTHEW J. CONROY, ESQ.

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1 THE CLERK: Civil cause for motion. GEICO, et al.  
2 versus Mayzenberg, et al.

3 Counsel, please come forward and state your  
4 appearances for the record.

5 MR. SIRIGNANO: Good afternoon, Your Honor. My name  
6 is Michael Sirignano from the law firm of Rivkin Radler along  
7 with associate Steven Henesey. We represent the plaintiffs  
8 collectively known as GEICO.

9 THE COURT: Good afternoon.

10 MR. HENESEY: Good afternoon, Your Honor.

11 MR. CONROY: Good afternoon. Matthew Conroy and I  
12 represent the defendants Igor Mayzenberg, Sanli Acupuncture,  
13 Mingmen Acupuncture and Laogong Acupuncture.

14 THE COURT: Good afternoon.

15 MS. MAYLOV: Good afternoon, Judge. I'm Dinara  
16 Maylov and I represent Tamilla Dovman.

17 THE COURT: Good afternoon. You all may sit down.

18 Does plaintiff want to be heard on these motions for  
19 summary judgment?

20 MR. SIRIGNANO: Yes, Your Honor. Thank you.

21 THE COURT: I want to listen to the plaintiffs  
22 first.

23 MR. SIRIGNANO: Plaintiffs have moved for summary  
24 judgment, Your Honor --

25 THE COURT: Stand up and use the mic.

1 MR. SIRIGNANO: Plaintiffs, Your Honor, have moved  
2 for summary judgment against all defendants on all claims but  
3 only as to a single issue involving defendants' wrongful  
4 conduct. There's a number of items of wrongful conduct but  
5 the motion for summary judgment is based on the defendants  
6 engaging in a scheme to defraud GEICO by having Mingmen  
7 Acupuncture submit bills for acupuncture services that were  
8 the product of a patient referral and kickback scheme.

9 Plaintiffs' motion for summary judgment is based on,  
10 first, the law of this case and a mountain of undisputed  
11 evidence confirming that this patient kickback and referral  
12 scheme took place and as you'll find out, there's really no  
13 dispute about the key operative facts about this patient  
14 kickback and referral scheme.

15 Now, first, as to the law of the case, this court  
16 has already held in a memorandum and order dated November 16,  
17 2018 that the payment of kickbacks by a healthcare provider  
18 like Mingmen Acupuncture renders that provider ineligible to  
19 recover benefits under the no fault law and we can talk about  
20 that further, but that ruling has already been made in  
21 connection with a prior motion that the plaintiffs filed in  
22 this case.

23 THE COURT: Do I understand you to say there is no  
24 dispute at all as to whether there were kickbacks for  
25 services? Did I hear that?

1 MR. SIRIGNANO: Yes, you did. The dispute is not  
2 about the operative facts. They're attempting to raise a  
3 dispute but it's -- the entirety of their defense is based on  
4 Mr. Mayzenberg's claim that he had an understanding that the  
5 payments made to a series of shell companies were from  
6 marketing and advertising expenses. That understanding is not  
7 supported by a single objective fact.

8 THE COURT: But the fact is that there is a dispute  
9 as I get it as to whether there were kickbacks.

10 MR. SIRIGNANO: No. There's not a dispute as to --

11 THE COURT: Does Mr. Mayzenberg dispute it at all?

12 MR. SIRIGNANO: Mr. Mayzenberg disputes the fact  
13 that these payments are legally considered to be kickbacks.

14 He doesn't dispute that he made payments for  
15 referrals of patients. He specifically testified repeatedly  
16 and he's put no evidence to counter plaintiffs' arguments that  
17 he paid monies to have patients sent to medical clinics. I  
18 can go through a series --

19 THE COURT: Excuse me. I am a little confused.

20 As I understand, GEICO's claim is that they were  
21 being billed for medical services which were either not  
22 performed or unnecessarily performed and for services that  
23 were obtained by virtue of kickbacks that were made by, as I  
24 believe it, the Dovmans or referrals made by the Dovmans and  
25 that Mayzenberg claims that the payments that he made were not

1 for kickbacks, not for referral of services, but for  
2 advertising, consulting and whatever other services Dovman  
3 provides. As I understand it, the dispute is whether he paid  
4 for referral services. He says that he did not. So when you  
5 say there is no dispute about what is the essential fact on  
6 which you are basing your claim, I am having trouble  
7 understanding that.

8 MR. SIRIGNANO: There is no genuine dispute that  
9 requires a trial because all of the operative facts regarding  
10 the payments are undisputed. It's the characterization of  
11 those payments.

12 Now, under the law, Your Honor, under the education  
13 law, paying for patient referrals, offering to pay for patient  
14 referrals, whether directly or indirectly, is a violation of  
15 the law and while Mr. Mayzenberg has submitted an affidavit  
16 that contains one sentence saying it's his understanding that  
17 certain vague payments were for marketing and advertising,  
18 everything else in the case, objectively, is absolutely clear  
19 that those payments were made to send patients to the clinics.

20 So if you look at the law which says payments made  
21 directly or indirectly, as a matter of law, he can  
22 characterize them as his belief but that doesn't change what  
23 those payments were for under the law, and he has to have some  
24 evidence supporting his understanding, Your Honor. There is  
25 absolutely no evidence supporting his understanding.

1           And very briefly, if I may, because there are  
2 clearly undisputed material facts here that they concede that  
3 will demonstrate that Mr. Mayzenberg's understanding has no  
4 concrete foundation whatsoever, there's not a shred of  
5 evidence, and that can be determined through, number one --  
6 you know, there's a lot of paper here but there is no dispute  
7 about the fact that Mr. Mayzenberg made \$389,000 in payments  
8 to these Dovman shell companies.

9           There is no dispute that the Dovman shell entities  
10 did not conduct any marketing and advertising services. They  
11 admit that. There's no dispute that the Dovman shell entities  
12 did not perform any legitimate business activity. There's no  
13 dispute about that. There's no dispute about the manner in  
14 which Mr. Mayzenberg made the payments and I think this is  
15 significant.

16           He testified, and there's no dispute about this,  
17 that he made these payments that he says, it was my  
18 understanding, to be marketing and advertising, he made these  
19 payments when he got a phone call from some complete stranger  
20 at his office who told him how much he should be paying and he  
21 left those checks, he filled out an amount of the checks  
22 without ever, over the course of two years, indicating in the  
23 memo line of the check what those checks were for. He left  
24 every single check blank over the course of two years. Those  
25 checks, he just left with, again, complete strangers to pick

1 those checks up from his office.

2 The checks were written to companies not with  
3 marketing and advertising names in them. The checks were  
4 written to companies like ML Garbage, MN Surgical Supply, Rig  
5 Testing. That's the manner in which he made these payments.

6 Secondly, there was no evidence -- he never got an  
7 invoice. He admits that. He admits that in the material  
8 statement of facts. In two years, \$389,000 worth of payments,  
9 he never got a single invoice from any one of those companies.  
10 He also admits that there's not a shred of paper proving any  
11 marketing and advertising. We've asked him. He has nothing.  
12 So all of that is admitted. He also admits paying someone  
13 named Desiree Reid for patient referrals. Now, again, he says  
14 that was an indirect payment for a referral. He's also paid  
15 for-profit medical referral companies.

16 Finally, Your Honor, there's no dispute about the  
17 ultimate purpose of the payments. Now, Mr. Mayzenberg, again,  
18 in one line says, well, I know all this evidence exists but  
19 it's my understanding that they were supposed to go for  
20 marketing and advertising. But the ultimate purpose of the  
21 payments, Mr. Mayzenberg made clear over and over again, he  
22 said those payments were to send patients to the clinics. He  
23 said even if the patients had to be found in the garbage and I  
24 paid a garbage company to send patients to the clinics, that's  
25 why I made the payments. He said it was his sole concern.

1 Why he made those payments was to send patients to the  
2 clinics.

3           So when you add up all of that mountain of evidence,  
4 the only thing that we have on the other side is  
5 Mr. Mayzenberg saying, well, forget all of that evidence, I  
6 kind of believe, I had a vague understanding that, you know, I  
7 sent these checks to complete strangers and it was my kind of  
8 understanding that they were for marketing and advertising.  
9 It's our position that when plaintiffs present a mountain of  
10 evidence like this and the only thing in opposition is a  
11 single sentence, essentially, two words that it was his  
12 understanding, that that is not sufficient to defeat summary  
13 judgment in favor of plaintiffs, especially since Your Honor  
14 already ruled that payments under the education law, whether  
15 made directly or indirectly for patient referrals, is a  
16 violation of the no fault law.

17           So, in summary, Your Honor, we have all of this  
18 evidence and nothing that creates a genuine dispute that these  
19 payments violate the education law. That's where plaintiffs  
20 believe they're entitled to summary judgment.

21           By the way, Your Honor, the other defendants in this  
22 case, Igor Dovman, he pled the Fifth Amendment and he invoked  
23 the Fifth Amendment in response to every substantive  
24 allegation in plaintiffs' complaint. You would think that  
25 Mr. Dovman would support Igor Mayzenberg. He's the one that



1 supposedly provided the marketing and advertising expenses,  
2 services. Instead, he refused to oppose the motion for  
3 summary judgment.

4           So if you put Igor Dovman and Igor Mayzenberg and  
5 Tamilla Dovman together -- Tamilla Dovman is the third  
6 defendant in this case. She did not submit any evidence in  
7 opposition to plaintiff's motion. She didn't submit a sworn  
8 affidavit. She didn't submit any evidence. What she did is  
9 in response to plaintiffs' Rule 56 statement, she said to  
10 virtually every material fact, she lacked knowledge and  
11 information to provide a response. The case law is clear that  
12 that is insufficient and that Tamilla Dovman has been deemed  
13 and should be deemed to have admitted all of the material  
14 facts in plaintiffs' case.

15           So, in summary, Your Honor, I'll be happy to go on,  
16 but there's a lot of evidence here and when you cut through  
17 what the defendants are saying, ask them what particular facts  
18 do they dispute.

19           There's nothing from Tamilla Dovman. She says she  
20 lacks knowledge. She didn't want to find out what happened  
21 here. Her husband, Igor Dovman, was involved in the patient  
22 kickback scheme. She worked with him at his law office. She  
23 was married to him. She was president on a number of the  
24 shell companies. She wants to bury her head in the sand and  
25 say you can't get summary judgment against me. That's not

1 appropriate under law.

2 Igor Dovman has defaulted on the motion for summary  
3 judgment so that leaves Mr. Mayzenberg and the Mingmen  
4 defendants and they have not submitted anything concrete,  
5 anything genuine that amounts to a triable issue of fact to  
6 dispute the litany of undisputed facts that I went through  
7 with Your Honor.

8 THE COURT: What you are saying, as I understand it,  
9 is that circumstantially, there can be no doubt but that  
10 payments were made by referrals directly and indirectly.  
11 These payments were made by Mr. Mayzenberg directly to whom?

12 MR. SIRIGNANO: The payments were made by both  
13 Mr. Mayzenberg and some -- to a series of shell companies that  
14 do not exist. Mr. Mayzenberg, by the way, made the payments  
15 not from his active company, Mingmen. He made the payments  
16 from two dormant companies to conceal those payments.

17 Mr. Mayzenberg concealed everything about this  
18 scheme. Those payments were made from dormant companies that  
19 didn't actively provide any services to patients, yet he had  
20 Mingmen Acupuncture as an active company but he didn't want to  
21 have Mingmen pay for the patients. He had his dormant  
22 companies pay these shell companies that are associated with  
23 Igor and Tamilla Dovman. Those companies don't exist. Those  
24 companies don't provide marketing and advertising services.  
25 Those companies are shell companies by everyone's account.

1 There's no debate about that.

2 Mr. Mayzenberg, by the way, not only paid out of  
3 these defunct dormant companies. When asked, in interrogatory  
4 responses, who did you use for marketing and advertising in  
5 this case, he said no one, because he didn't pay marketing and  
6 advertising expenses. He paid kickbacks for patient referrals  
7 that he actively concealed over the course of years.

8 So while he wants to now say it's his understanding  
9 that he was paying marketing and advertising expenses, there's  
10 no, not a single fact, not a single shred of paper, there's no  
11 flyers, there's no advertisements, there's nothing that he can  
12 point to that says, I believe I was paying for marketing and  
13 advertising. How can he believe that when the names of the  
14 companies he was paying are ML Garbage Company, MN Surgical  
15 Supply? He couldn't have believed it.

16 In the context of fraud and RICO, I understand,  
17 Your Honor, that we need to prove intent on those but, first  
18 of all, we have claims for declaratory judgment and claims for  
19 unjust enrichment where intent is not a consideration. If we  
20 talk about the claims where intent is a consideration, yes,  
21 common law fraud and RICO, plaintiffs have to demonstrate  
22 intent, but the law is well settled that intent, particularly  
23 in the fraud arena, is not proven by direct evidence.

24 Mr. Mayzenberg is not going to stand up and tell the Court,  
25 yes, you're right, I was paying kickbacks and I was lying to

1 GEICO the whole time.

2 Fraud is proven through circumstantial evidence and  
3 the evidence in here is overwhelming. There's no other  
4 conclusion that could be reached. He just simply is saying  
5 it's his understanding after lying in his interrogatory  
6 responses, after paying monies out of concealed bank accounts,  
7 after paying companies in the way he did by giving checks to  
8 complete strangers which he claims he never knew who they  
9 were, by writing checks that have blank memo lines, you know,  
10 this practice and procedure, everything about it, it's beyond  
11 raising any genuine issue for trial.

12 THE COURT: How has your claim established that the  
13 payments were for referrals and for nothing else? How do you  
14 make that connection?

15 MR. SIRIGNANO: Mr. Mayzenberg repeatedly testified,  
16 it's undisputed, that he made those payments only for one  
17 reason: That patients were sent to the clinics. He  
18 specifically said that if patients were not sent to the  
19 clinics, I would not pay those companies. And if patients  
20 stopped being sent to the clinics by certain of the companies,  
21 he testified, I stopped paying those companies. Now, again,  
22 he's saying it's his understanding that those were marketing  
23 and advertising payments, but all accounts demonstrate it was  
24 a direct payment for a patient referral.

25 Now, I also asked Mr. Mayzenberg at his deposition

1 to identify, how did he keep track of which patients were sent  
2 in connection with which payments. He said, I don't keep  
3 track, I can't tell you, I have no records.

4 Well, you would think that someone who's paying  
5 marketing and advertising expenses, first, would want to get  
6 an invoice from one of the companies. He never got an  
7 invoice. Second, you would want to see, see an advertisement  
8 or a flier, something that they did. They didn't give him any  
9 of that. He got nothing, zero, except his testimony is that,  
10 I got sent patients.

11 So while I can't tell you which particular patient  
12 was sent when, there is no dispute that Mr. Mayzenberg made  
13 these payments and got patients sent to the clinics.

14 THE COURT: Excuse me.

15 The services that were being billed for were for  
16 acupuncture, is that right?

17 MR. SIRIGNANO: Yes, Your Honor.

18 THE COURT: Who was providing the acupuncture  
19 services?

20 MR. SIRIGNANO: Not Mr. Mayzenberg. Mr. Mayzenberg  
21 is the record owner of Mingmen Acupuncture. That's the  
22 company that was billing GEICO for acupuncture services.  
23 Mr. Mayzenberg hired what we call treating acupuncturists to  
24 provide these services and then Mr. Mayzenberg, although he  
25 didn't treat patients, he then, you know, billed GEICO for

1 those services.

2 THE COURT: Now, people came to Ming -- not "Ming"  
3 but Mingmen. Did they come to Mingmen?

4 MR. SIRIGNANO: Yes, they went to Mingmen  
5 Acupuncture.

6 THE COURT: And who performed those services,  
7 acupuncturists, certain independent contractors?

8 MR. SIRIGNANO: We believe they're independent  
9 contractors. There's a dispute over that and I'll grant a  
10 factual dispute as to whether they're actual W-2 employees of  
11 Mingmen or they're independent contractors, but some treating  
12 acupuncturist performed the services or allegedly performed  
13 the services.

14 THE COURT: Now, persons came to Mingmen for  
15 acupuncture services?

16 MR. SIRIGNANO: Yes.

17 THE COURT: Did he indicate how it is that they came  
18 there, who sent them there?

19 MR. SIRIGNANO: No. We asked Mr. Mayzenberg  
20 repeatedly about all the payments to all of these different  
21 companies that didn't do any advertising and marketing --

22 THE COURT: Excuse me. Excuse me.

23 When you say all of the different companies,  
24 somebody comes to Mingmen for acupuncture services. Does  
25 anybody ask: How did you get here? Who are you? Who

1 referred you? What brings you here? Did anybody ask that  
2 question?

3 MR. SIRIGNANO: Mr. Mayzenberg says no.

4 THE COURT: Was Mr. Mayzenberg there when these  
5 people were provided services?

6 MR. SIRIGNANO: I asked Mr. Mayzenberg if he had any  
7 records or if there was any way to tell how these patients got  
8 to the clinics and he said no.

9 THE COURT: Was Mr. Mayzenberg present at Mingmen or  
10 was he absent?

11 MR. SIRIGNANO: He was not present on a daily basis  
12 but he claims to be the sole owner of Mingmen. He claims to  
13 have gone to the locations. He claims to be in charge of the  
14 management and operations of Mingmen. He claims to be the  
15 owner.

16 THE COURT: Now, a person comes to Mingmen for  
17 acupuncture services and services are provided by an  
18 acupuncturist, is that right?

19 MR. SIRIGNANO: Well, for purposes of this motion,  
20 we're conceding that. I mean, that's another issue but, yes,  
21 acupuncture services are allegedly provided by the treating  
22 acupuncturists and then a bill is generated and sent to GEICO  
23 for those services.

24 THE COURT: All right. Now, what happens  
25 thereafter? Somebody, Mingmen or Sanli or Laogong or whoever

1 it is, then gets money from Mayzenberg?

2 MR. SIRIGNANO: Unfortunately, Your Honor, it's not  
3 that simple because of the deception and concealment. We have  
4 tried over the course of years to get specifics about how the  
5 patient referral system worked and we don't know if  
6 Mr. Mayzenberg was paying for patient referrals after the  
7 patients came or whether it was in advance of the patients  
8 being referred to the clinic. There's somewhat confusion on  
9 that.

10 THE COURT: Who was he paying? Who are the checks  
11 being paid to?

12 MR. SIRIGNANO: The checks were being paid to a  
13 series of companies that we call the Dovman shell companies.  
14 These are a series of companies that listed either Igor Dovman  
15 as the president or Tamilla Dovman as the president and those  
16 companies had no actual operations and they had different  
17 names and they had different names for a reason. He was  
18 paying a whole series of these companies: Crick Medical  
19 Testing, ML Garbage Removal, MN Surgical Supplies, Robert  
20 Consulting, Trim VR Services. There's a whole list of  
21 companies that Mr. Mayzenberg would pay, as he said, to send  
22 patients to the clinic.

23 He testified specifically, when I asked him about ML  
24 Garbage Removal, that company, I said why are you paying a  
25 company called ML Garbage Removal for referrals of patients.



1 He said, I will pay any company, I will pay a garbage company,  
2 as long as the garbage company refers patients to my clinics,  
3 I will pay them. That's what he said.

4 So I can't give you specifics but I know he knows he  
5 paid these companies for patient referrals.

6 THE COURT: Now, am I understanding that there is a  
7 deposition at which Mr. Mayzenberg was asked why have you paid  
8 X dollars to Y company and he said because they referred  
9 patients to him?

10 MR. SIRIGNANO: Yes. He said, I will pay any  
11 company that sends patients to my clinics. That's what he  
12 said.

13 Then he characterized -- during the same deposition,  
14 he then characterized it, well, I'm -- they must be providing  
15 advertising and marketing services. Then I said, Well, what  
16 advertising and marketing services? He said, It must be  
17 flyers. I said, Do you have any of those? No. You've been  
18 making these payments over the course of two years, you paid  
19 \$389,000 over the course of two years to a series of 13  
20 different companies, do you have a single piece of paper  
21 showing anybody performed marketing and advertising services?  
22 No. Did you ever get an invoice from any one of these  
23 companies saying they provided services to you? No. Why did  
24 you pay them, Mr. Mayzenberg? Because they sent patients to  
25 my clinics.

1 THE COURT: Now, you made some observation that  
2 payments were being made directly and indirectly. What were  
3 the indirect payments? How did that come about?

4 MR. SIRIGNANO: No, Your Honor. I made reference to  
5 the New York State education law which is the statute, one of  
6 the statutes, there's a number of them, that prohibits paying  
7 for patients. That statute, by its own language, makes it --  
8 it prevents providers from making payments and the term is  
9 payments directly or indirectly for patient referrals. And I  
10 think what that statute is intended to do is to actually  
11 address the type of behavior that Mr. Mayzenberg is engaging  
12 in.

13 He's saying, Well, wink, wink, it's for marketing  
14 and advertising, but we know if it's not a direct payment for  
15 a patient referral, it's clearly an indirect payment. That's  
16 what the New York statute is saying, that you can't make a  
17 payment for a patient referral. You can't even offer to make  
18 a payment for patient referral. That's what the education law  
19 says. And those payments, whether they're made for a direct  
20 patient referral or indirect patient referral, are still  
21 prohibited under the law.

22 THE COURT: Is there anything else?

23 MR. SIRIGNANO: Just quickly, I wanted to mention  
24 the Igor Dovman and Tamilla Dovman portion of it because I  
25 think Igor Dovman, who is the other main defendant in this

1 case who supposedly was providing the marketing advertising  
2 services, he pled the Fifth Amendment and he refused to  
3 respond to any of the substantive allegations in the  
4 complaint. And under the law, an adverse inference, a  
5 negative inference should be drawn against the other parties  
6 to this case, Mr. Mayzenberg and Tamilla Dovman.

7 Under U.S. v. LiButti, the critical question is  
8 whether that negative inference is trustworthy under the, you  
9 know, for the search of truth.

10 Here, if you look at all the ample evidence that we  
11 have and the lack of any documentation, the fact that Mr. Igor  
12 Dovman invoked the Fifth Amendment and concealed the fact that  
13 he was getting all of these monies is significant evidence and  
14 I think that, in addition to everything else, should add to  
15 the weight of the evidence and the imposition of summary  
16 judgment in plaintiff's favor against all of the defendants.

17 THE COURT: How does Tamilla Dovman come into this  
18 picture?

19 MR. SIRIGNANO: Tamilla Dovman obviously is  
20 Mister -- excuse me -- she's Mr. Dovman's wife. She worked  
21 out of the same Coney Island law office that Mr. Dovman worked  
22 out of, as well as two personal injury lawyers who were the  
23 ones involved in obviously handling automobile accident cases.  
24 And Mr. Mayzenberg and his companies specialized in treating  
25 individuals injured in automobile accidents.

1 Now, at this law office, Tamilla Dovman now claims  
2 to be just a paralegal, but she was there with her husband and  
3 with these two other lawyers.

4 The one lawyer, David Feinerman, was disbarred for  
5 improper conduct in connection with his clients' settlement  
6 funds for a period of time. He then got reinstated.

7 Another lawyer, Daniel Corley, invoked the Fifth  
8 Amendment. When we asked Mr. Corley were you involved in a  
9 patient kickback scheme with the other defendants in this  
10 case, he refused to answer it. This is a lawyer admitted to  
11 the State of New York. Why would he have a reason other than  
12 the fact that he's implicated in the patient kickback scheme?  
13 He would have no reason to invoke the Fifth Amendment other  
14 than the fact that he was aware of and guilty and involved in,  
15 at that law office, the patient kickback scheme.

16 That's where Tamilla Dovman worked and she was at a  
17 law office, Tamilla Dovman, with her husband, with these  
18 lawyers.

19 The companies that I talked about that got the money  
20 for Mr. Mayzenberg, there's a whole series of them, Tamilla  
21 Dovman was the president of three of them. Two of those  
22 companies were directly paid monies by Mr. Mayzenberg. Okay?  
23 So she was getting monies as the president of shell companies.  
24 These companies don't exist. These companies have no  
25 operations. These companies provide no services. Yet, she

1 was the president of those companies. She also made transfers  
2 of funds to those companies. She endorsed checks.

3 Now, her liability in this case is just as a  
4 co-conspirator under RICO and under RICO, the conspiracy  
5 statutes, the co-conspirator doesn't have to commit all  
6 aspects of the fraudulent scheme. They just have to have  
7 general knowledge of the scheme and commit portions of the  
8 act. She clearly is a co-conspirator under RICO. So that's  
9 her involvement.

10 Just for Your Honor's own information, when we moved  
11 for summary judgment on these, you would think that Tamilla  
12 Dovman would have some innocent explanations for her being  
13 listed as the president of companies that don't have any  
14 operations. You would think she would have some instant  
15 explanation as to why she was endorsing checks to these shell  
16 companies, why she worked at this law office. She submitted  
17 nothing. No affidavit. She submitted no -- she didn't  
18 dispute any of the material facts in our Rule 56 statement.  
19 She didn't conduct any discovery in the case. She wants to  
20 bury her head in the sand and say I didn't know who was going  
21 on. She didn't want to know what was going on.

22 She purposely avoided trying to get involved in the  
23 ultimate payments, but she was listed as president, she was  
24 actively involved and she didn't give any explanation and  
25 under those circumstances, you can't defeat a summary judgment

1 motion just by saying, hey, I didn't know what was going on,  
2 period.

3 So what we have, in summary, Your Honor, I'll sit  
4 down now, is that Mr. Mayzenberg's main defense in this case  
5 is I had an understanding that they were payments for  
6 marketing and advertising with no supporting back up. Tamilla  
7 Dovman's defense to the summary judgment motion is I didn't  
8 know what was going on with no supporting facts or evidence.

9 THE COURT: Thank you.

10 MR. SIRIGNANO: Thank you, Your Honor.

11 THE COURT: Ms. Maylov, did you want to be heard on  
12 behalf of your client?

13 MS. MAYLOV: Yes, Judge.

14 THE COURT: Please.

15 MS. MAYLOV: Well, plaintiff's counsel just stated  
16 here that Tamilla Dovman worked with Igor Dovman at his law  
17 office and she testified at her deposition that she worked at  
18 the law office of Daniel Corley and Mr. Feinerman. Her  
19 husband, as far as she knows, doesn't own a law office. They  
20 share the same building. The law office is on the second  
21 floor and Mr. Dovman rented space on the third floor of the  
22 same building on Coney Island Avenue in Brooklyn.

23 The statement that she worked for her husband is a  
24 just a pure insinuation by plaintiff's counsel. She came to  
25 the deposition. She provided her income taxes in discovery.

1 It shows where she worked, who she worked for and, yes, she  
2 didn't know the answer to some questions, but she clearly  
3 stated on the record that she wasn't involved in any scheme to  
4 defraud GEICO. She actually answered that question on the  
5 record.

6 I mean, she is related to her husband, she's his  
7 wife, but whether there's any conduct by Mr. Dovman that she  
8 testified that she had no knowledge of doesn't make her a  
9 party to conspiracy. Actually, the attorneys that she worked  
10 for, Mr. Corley and Mr. Feinerman, never had personally as an  
11 attorney referred or paid a kickback to Mr. Mayzenberg or  
12 otherwise from Mr. Mayzenberg to them for referral of  
13 patients. There is not one client of theirs who's a patient  
14 of Mr. Mayzenberg as far as our understanding. GEICO has not  
15 provided any proof that there was kickback by these two  
16 attorneys.

17 Now, the payments were made by Mr. Mayzenberg to  
18 shell companies and we don't know what the payments were for  
19 other than Mr. Mayzenberg's testimony that it is for  
20 advertising and referral. So there is no other proof that  
21 it's a kickback scheme to defraud GEICO. So my client had  
22 nothing to do with the defrauding of GEICO. She hasn't billed  
23 GEICO directly. I don't know if she had the benefit of any  
24 payments from the two or three companies that she's been a  
25 president of and was a signatory on the bank account. So her

1 involvement in the scheme is not existent, Judge.

2 THE COURT: What did these companies that she was  
3 the president of do? Did they have some function? Did they  
4 have some business?

5 MS. MAYLOV: As far as my client testified, she had  
6 some limited knowledge. She didn't know what exactly  
7 happened, she knew funds were put in and she knew other funds  
8 were taken out by making payments to other companies.

9 THE COURT: Who created these shell companies?

10 MS. MAYLOV: I mean, I believe she did. I believe  
11 she was the president of the three companies.

12 THE COURT: Who created the companies, she did?

13 MS. MAYLOV: Yes.

14 THE COURT: For what purpose? She was a paralegal,  
15 was she, at a law office?

16 MS. MAYLOV: Yes.

17 THE COURT: That was her primary job?

18 MS. MAYLOV: It was her primary job.

19 THE COURT: What was the purpose in creating a shell  
20 company; the company's incorporation?

21 MS. MAYLOV: Yes, they are.

22 THE COURT: So she must have gone to a lawyer and  
23 asked the lawyer to form a corporation for her, that she would  
24 be the president of the company. What was her purpose in  
25 doing that?



1 MS. MAYLOV: Well, some of these companies were  
2 created that she, as an independent contractor, could be paid  
3 for the services she provided to attorneys.

4 THE COURT: My question is what was the purpose for  
5 the creation of these corporations which had no function  
6 whatsoever except to be in existence. What was her purpose?

7 MS. MAYLOV: Well, I don't know what the purpose is  
8 but it wasn't the purpose of defrauding GEICO.

9 THE COURT: Did it have any purpose at all? Did it  
10 have any function at all?

11 MS. MAYLOV: I can't answer that question today,  
12 Judge.

13 THE COURT: It received money?

14 MS. MAYLOV: They have received money.

15 THE COURT: From Mr. Mayzenberg?

16 MS. MAYLOV: Some of these companies, yes.

17 THE COURT: And did Mr. Dovman inquire as to why  
18 Mr. Mayzenberg was sending her company money? The checks were  
19 going to her as the president of the company?

20 MS. MAYLOV: Well, there was a referral for, you  
21 know, advertisement and there was a payment for advertisement  
22 according to Mr. Mayzenberg.

23 THE COURT: Well, was Ms. Dovman in the advertising  
24 business or was she a paralegal?

25 MS. MAYLOV: She was a paralegal.

1 THE COURT: And she was being paid for advertising  
2 services?

3 MS. MAYLOV: I can't answer that question, Judge.

4 THE COURT: Is there anything else you would like to  
5 say to me?

6 MS. MAYLOV: No. Thank you.

7 THE COURT: Thank you very much.

8 Mr. Conroy?

9 MR. CONROY: Thank you, Your Honor.

10 I'm going to make reference to an exhibit to the  
11 plaintiff's motion for summary judgment and I've taken the  
12 liberty of making a larger photocopy of part of their expert's  
13 report and I have a copy for Your Honor if you can't clearly  
14 see this one. I'd be happy to hand it up.

15 THE COURT: What is the purpose of this? What's the  
16 relevance of this?

17 MR. CONROY: Your Honor, this is a flow chart that  
18 describes the scheme to defraud as alleged by GEICO and as set  
19 forth in GEICO's forensic accountant's expert report and it  
20 purports to show the flow of money from Mingmen, the treating  
21 acupuncture PC, to Dr. Mayzenberg and then on to  
22 Dr. Mayzenberg's other companies, Sanli and Laogong, and then  
23 to the Dovman shell entities.

24 My issue in this case and the basis for my motion  
25 and my opposition to the plaintiff's motion is the last

1 segment of the flow chart where it shows money going from the  
2 Dovman shell entities to the patients or for the referral of  
3 patients and what I submit to Your Honor is that there is no  
4 evidence, there is just an absence of evidence as to what the  
5 kickback scheme was. It's GEICO's burden. It's their case.  
6 They can't even explain or allege what the kickback scheme is.  
7 They just say we paid Dovman for the referral of patients.

8 Over the course of eight years --

9 THE COURT: Excuse me.

10 MR. CONROY: Yes, Your Honor.

11 THE COURT: As I understand it, Counsel has said  
12 that Mr. Mayzenberg was asked whether he paid these shell  
13 companies for the referral of patients and Mr. Mayzenberg said  
14 yes. That's what I thought I heard the attorneys say. And  
15 apparently that's in response to a deposition question and  
16 answer.

17 MR. CONROY: Your Honor, that section of the  
18 deposition, Mr. Mayzenberg is answering questions about his  
19 belief he was paying monies for advertising and marketing. He  
20 specifically said he never engaged in any kickback scheme.

21 The general motion that plaintiffs have put forth is  
22 that any payment to any person of any formula results in a  
23 patient going to a medical practice is in the form of a  
24 kickback and that is a gross oversimplification in a broad  
25 brush stroke to say that all monies paid constitute kickbacks.

1 That's simply not the case.

2 A kickback, as we understand it, you can pay  
3 directly to a patient. That's a kickback. Pay a runner,  
4 that's a kickback. Paying the attorney to bring that patient,  
5 that could be a kickback. The plaintiffs don't say what are  
6 the Dovman shell entities doing with this money. Are they  
7 paying lawyers, patients, runners, other doctors? There's no  
8 evidence of where the money goes after Dovman. There's none.

9 There were 1,3398 patients that were treated by the  
10 Mayzenberg PC's. GEICO has access to all of these people and  
11 they spoke to many of them. There's not one statement about  
12 one patient about why they were treated at Mayzenberg clinic.  
13 There's no evidence that any lawyer sent them, that any lawyer  
14 sent them, that Dovman sent them, that they were paid money.  
15 There's no evidence whatsoever. This is a fiction.

16 I agree that three-quarters of it gets filled out.  
17 I don't dispute the fact that the money was paid from Mingmen  
18 to Mayzenberg to Sanli and then it made its way to the Dovman  
19 shell entities, but there's simply no evidence that any of  
20 this money went specifically for the referral of any GEICO  
21 patient. What GEICO is trying to do is take one line from  
22 Mr. Mayzenberg's deposition and say he admitted, he admitted  
23 that these payments were for the referral, the illicit or  
24 illegal referring.

25 Mr. Mayzenberg does not speak English as a first

1 language. He's of Ukranian descent. He says, I paid money  
2 for the patients, to get the patients, but at the same time  
3 says through marketing and advertisement. In his mind, in his  
4 words, as it shows up in the deposition transcript, when I pay  
5 money for advertisement, that means my patient come to my  
6 clinic. That's a very different situation from paying a  
7 runner, paying a lawyer, paying someone to illegally refer or  
8 to accept a kickback for referral of the patient. That really  
9 specifically is what this case at this stage is about.

10 I would also point out that on the issue of the  
11 negative impulse, LiButti actually had several factors as to  
12 whether or not it's appropriate to imply negative inference  
13 from one party against other parties and those four factors do  
14 not fall in favor of GEICO in this case.

15 There's virtually no evidence that Mr. Mayzenberg  
16 and Mr. Dovman even knew each other. There is scant  
17 communication between them at any one time in time. There are  
18 checks being made out to these companies but Mr. Mayzenberg  
19 testified that did he not know Mr. Dovman and that this was  
20 just an arrangement that came through one of the clinics and  
21 he left the checks blank and someone filled in the names.

22 THE COURT: Excuse me. An arrangement came through  
23 one of the clinics? What clinic are you referring to?

24 MR. CONROY: Mayzenberg's PC operated out of  
25 different locations. Two of them were in Brooklyn. One of

1     them was in the Bronx. It could have been the three that were  
2     in Brooklyn.

3             THE COURT: Who provided the acupuncture services at  
4     these various clinics?

5             MR. CONROY: The employee acupuncturists of the  
6     PC's.

7             THE COURT: They were employees?

8             MR. CONROY: They were employees, K2. He hired  
9     them. He paid them on W-2. Some of them were paid beyond the  
10    W-2s for what he described as other services for which he paid  
11    them through his other PCs, but they were payroll, salaried  
12    payroll of those PCs.

13            THE COURT: I thought I heard that Mr. Mayzenberg  
14    had made somewhere in the neighborhood of  
15    300 some-odd-thousand dollars from these various shell  
16    companies, is that right?

17            MR. CONROY: Over the period of roughly 18 months.

18            THE COURT: He paid 300-some-odd-thousand-dollars?

19            MR. CONROY: I believe it's 389,000 to a series of  
20    companies.

21            THE COURT: And was Mr. Mayzenberg's explanation  
22    that some \$300,000 was paid for marketing services?

23            MR. CONROY: Marketing.

24            THE COURT: What does marketing mean? What does  
25    marketing mean? What was he paying for that he would say was

1 for marketing?

2 MR. CONROY: I would -- I don't believe that there  
3 is evidence in the summary judgment.

4 THE COURT: I'm not asking about evidence. I'm  
5 asking you, sir.

6 MR. CONROY: What I believe marketing activities  
7 would be?

8 THE COURT: What did Mr. Mayzenberg understand that  
9 he was paying for in terms of marketing?

10 MR. CONROY: Marketing a practice or clinic  
11 location.

12 THE COURT: He was paying these shell companies for  
13 marketing 300 some-odd-thousand-dollars in a period of  
14 18 months. Is that what I'm hearing?

15 MR. CONROY: Your Honor, \$389,000 sounds like a lot  
16 of money and it is, but in the context of companies like  
17 these, these are --

18 THE COURT: I'm sorry. How did Mr. Mayzenberg get  
19 to know these shell companies? How did that come about?

20 Did they solicit Mr. Mayzenberg for business and  
21 say, Mr. Mayzenberg, we will advertise your acupuncture  
22 clinics for you?

23 And by the way, is there some prohibition, legal  
24 prohibition for medical providers to pay for advertising for  
25 patients? Is this something --

1 MR. CONROY: Your Honor, if you ask GEICO, they  
2 would certainly say that's prohibited as a kickback.

3 THE COURT: I'm asking you.

4 MR. CONROY: I'm telling that you there isn't.

5 THE COURT: There is not?

6 MR. CONROY: There is not. There is what amounts to  
7 be a disciplinary rule that prohibits direct or indirect  
8 patient referral payments and that is codified as 8NYCRR29.1.  
9 That statute has been on the books a very long time.

10 There is virtually no case law on this statute of  
11 any kind and there is a, I believe either an Education  
12 Department or an Insurance Department opinion letter about  
13 this that is roughly 30 years old that is contained in the  
14 plaintiff's motion which essentially says -- we were asked a  
15 question, we're going to give a general answer.

16 The question was is it a violation of the  
17 anti-referral statute to pay a medical referral service,  
18 entities, to list the medical provider to a geographic area of  
19 potential patients. The opinion letter goes on to describe  
20 instances where they believe it would be or wouldn't be a  
21 violation and what they conclude in that letter is that unless  
22 the patient is being paid, it would not be a violation if you  
23 listed in the medical referral service marketing arrangement.

24 THE COURT: All right. Mr. Mayzenberg --

25 MR. CONROY: This is what the plaintiff relies on to



1 make this case.

2 THE COURT: Mr. Mayzenberg paid somewhere in the  
3 neighborhood of \$390,000 to a number of companies for  
4 advertising. Let's leave marketing out for a moment.

5 Did Mr. Mayzenberg have any sample of what it was  
6 that was being advertised that they provided to  
7 Mr. Mayzenberg?

8 MR. CONROY: He did not.

9 THE COURT: With copies of the advertisements that  
10 he was paying for?

11 MR. SIRIGNANO: He did not.

12 THE COURT: And so he was paying  
13 390 some-odd-thousand dollars for advertising that he never,  
14 never asked for, never provided to him.

15 Now, Mr. Mayzenberg was paying these collections to  
16 companies that he had no other relationship with in terms of  
17 services except marketing and advertising?

18 MR. CONROY: In fairness, Your Honor, Mr. Mayzenberg  
19 actually left checks that were filled out, where the dollar  
20 number was filled out and he signed the check, but someone  
21 else filled in the payer portion of the check.

22 THE COURT: You mean the payee?

23 MR. CONROY: I'm sorry. The payee, correct.

24 THE COURT: Who did that?

25 MR. CONROY: Well, the evidence in the record would

1 indicate that most of the payee lines were filled in by  
2 Equaduct and I have no handwriting expert to contradict that.

3 THE COURT: Did Tamilla Dovman? Did Tamilla Dovman  
4 fill out the payee line?

5 MR. CONROY: I'm not aware of any evidence to  
6 suggest that.

7 THE COURT: And were these checks endorsed? They  
8 would be endorsed for purposes of being deposited?

9 MR. SIRIGNANO: I'm fairly confident saying that the  
10 checks were endorsed.

11 THE COURT: By?

12 MR. CONROY: Your Honor, at this point, I'm drawing  
13 my memory of the plaintiff's second expert report which I did  
14 not rebut, but my understanding of the report in general is  
15 there was fairly detailed evidence that the checks had Igor  
16 Dovman's handwriting on them. I don't believe Tamilla  
17 Dovman's handwriting appeared on any of the checks and I'm  
18 fairly confident that Mr. Mayzenberg never filled out any of  
19 the payee portions of those checks. But as to what the  
20 specific endorsements on the back of those checks were, I  
21 cannot speak, speak with accuracy on that.

22 THE COURT: Well, Mr. Mayzenberg was preparing,  
23 signing blank checks to be paid, filled out by somebody who he  
24 didn't know who was going to fill in the payee but he was  
25 assuming that it was for advertising services?

1 MR. CONROY: Yes.

2 THE COURT: Yes?

3 MR. CONROY: That's correct.

4 THE COURT: Thank you very much.

5 Is there anything else?

6 MR. CONROY: That's it.

7 THE COURT: Thank you.

8 Is there anything further?

9 MR. SIRIGNANO: I guess very briefly, Your Honor,  
10 two things on the law.

11 First, monies paid for passive marketing advertising  
12 are perfectly legitimate and the opinion letter that  
13 Mr. Conroy references does indicate that, but it also makes  
14 clear that payments that are intended for referrals and  
15 recommendations by a for-profit entity are prohibited under  
16 the New York Public Health Law. So there's a difference  
17 between, you know, a passive advertisement and actively  
18 sending patients to clinics.

19 And Mr. Mayzenberg didn't say it was passive  
20 advertising. He said it was to send patients to clinics. He  
21 said if garbage removal company can find people, people and  
22 garbage there and send them to the clinic, I don't care how  
23 garbage companies are called. Another question: So this  
24 company Green BH was able to generate more patients for your  
25 practices? I think so.

1 THE COURT: Who were the payees named in these  
2 checks?

3 MR. SIRIGNANO: There's a series of shell companies  
4 and there is more than 15 of them and as I mentioned before,  
5 Your Honor, the names of those companies include companies  
6 like JER -- this one was the only advertising company -- JER  
7 Advertising and Consulting. There's Green BH, Inc., there's  
8 Cornell Plus Inc., there's Crick Medical Testing, there's ML  
9 Garbage Removal, there's MN Surgical Supply, Rig Testing, and  
10 a whole series of other companies.

11 THE COURT: And those payees' names were not filled  
12 in by Mayzenberg but the checks were prepared in blank and  
13 then the payee's name was filled in by some person?

14 MR. SIRIGNANO: Correct. And he got a call from  
15 someone he didn't know to actually pick up the checks. So the  
16 whole thing, there's just no actual evidence or even a shred  
17 of evidence that suggests that any kind of marketing and  
18 advertising was performed.

19 THE COURT: Thank you very much.

20 MR. SIRIGNANO: Thank you, Your Honor.

21 THE COURT: All right. Thank you. Thank you very  
22 much.

23 MR. CONROY: Thank you, Your Honor.

24 MR. SIRIGNANO: Thank you, Your Honor.

25 (Matter concluded.)